

REMARKS

The title and specification have been amended to make editorial changes therein, bearing in mind the criticisms in the Official Action, to place the application in condition for allowance at the time of the next Official Action.

The indication that claims 26 and 27 include patentable subject matter is acknowledged with thanks.

The Official Action objects to the form of claims 24-27. Claim 25 has been amended. Reference characters in parentheses in claims 24-27 that correspond to elements recited in the detailed description are permitted (MPEP 608.01(m)). Reconsideration and withdrawal of the objection are respectfully requested.

Claim 7 was rejected under §112, second paragraph, and has been amended as to form. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1, 3, 5, 7, 10-12, 14-15, and 28-29 were rejected as unpatentable over WANG et al. 6,266,365 in view of MIURA 6,658,046. Claims 2, 4, 6, 8-9, and 13 were rejected as unpatentable over WANG et al. in view of MIURA and SCHMIDL 6,816,541. Claims 16-21 were rejected as unpatentable over WANG et al. in view of MIURA and NARUSE 6,075,809. Paragraphs 35-37 discuss claims 22-24 respectively, but these three claims are not listed in Paragraph 28 and their status is uncertain.

Clarification of the status of claims 22-24 is respectfully requested.

MIURA issued as a patent on December 2, 2003. The present application was filed on June 6, 2001. Accordingly, MIURA is only available under 35 USC 102(e). MPEP §706.02(1)(1) states that effective November 29, 1999, subject matter that was prior art under 35 USC §103 via 35 USC §102(e) is disqualified as prior art against the claimed invention if the subject matter in the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

MPEP §706.02(1)(2) states that "commonly owned" means wholly owned by the same person or organization at the time the claimed invention was made. The present application is under assignment to NEC Corporation of Tokyo, Japan. MIURA lists NEC Corporation of Tokyo, Japan as the assignee. Applicants assert that at the time the invention was made, MIURA and the present invention were commonly owned by NEC Corporation.

Accordingly, 35 USC §103(c) applies to each of claims 1-25 and 28-29 in which MIURA is used as a reference. Since MIURA is disqualified as prior art by operation of 35 USC §103(c), the rejections should be withdrawn and claims 1-25 and 28-29 are patentable.

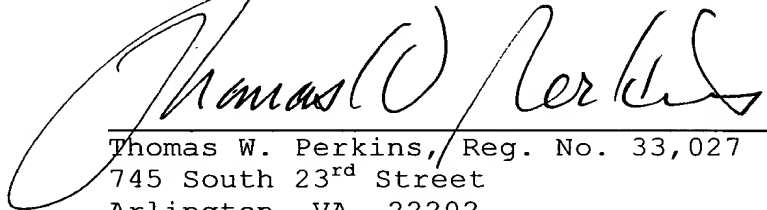
Reconsideration and withdrawal of the rejections are respectfully requested.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, appearing to read "Thomas W. Perkins". The signature is written over a horizontal line that separates it from the printed contact information below.

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